November 30, 2021

Tala Henry, Ph.D.,
Deputy Director
Office of Pollution Prevention and Toxics
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Room 3166A WJCE
Mail Code: 7401M
Washington, DC 20460

Re: EPA's Reconsideration of "Petition to Require Health and Environmental Testing Under the Toxic Substances Control Act on Certain PFAS"

Dear Dr. Henry:

I am writing to supplement my May 2021 correspondence to your office and to provide further input from Chemours concerning your office's recent decision to reconsider the TSCA Section 21 Petition requesting EPA require Chemours to undertake certain health and environmental effects testing of 54 PFAS compounds. It is our understanding that your office advised the Petitioners of its intent to reconsider the Petition and to complete its reconsideration within 90 days. As the sole commercial entity named in the Petition, Chemours has a unique interest in EPA's disposition of the Petition and previously submitted a response to the Petition detailing why the Petition fails to establish that its proposed action under TSCA Section 4 is necessary.[1]

Since the Petition denial, the Agency has taken steps to use its authority under Section 8 of TSCA to call-in existing health and environmental test data on PFAS that are active in commerce. Moreover, the Agency's recently issued National PFAS Testing Strategy reflects the Agency's preferred early approach for requiring manufacturers to generate studies to address Agency-identified data gaps for representative PFAS. Based on EPA's recent actions, and for the additional reasons described briefly below, we believe the Petition should again be denied because the request has been superseded and rendered moot.

First, the State of North Carolina's 2019 Consent Order with Chemours provides for targeted toxicity studies relevant to the Fayetteville Works facility, which is the focus of the Petition. Specifically, Chemours has already agreed in the terms of the 2019

[1] Chemours had previously submitted a detailed response to the allegations in the Petition within the 90-day statutory period. The submission made on behalf of Chemours appears in the Agency's docket: https://www.regulations.gov/document/EPA-HQ-OPPT-2020-0565-0013 ("Chemours January 2021 Submission") In the interest of brevity, we have elected not to repeat the considerable information and arguments contained in that submission.

Consent Order to undertake extensive toxicological studies of five representative PFAS compounds, each of which is among the 54 substances cited in the Petition.[2] The testing regime outlined in the Consent Order should be implemented and the results of those studies assessed before reaching any determination on the need for additional testing to further address geographically-specific substances, such as those included in the Petition.

Second, EPA's recently issued "PFAS Strategic Roadmap"[3] and the National PFAS Testing Strategy reflect an Agency-chosen approach for selecting "representative" PFAS for further testing. Nearly one-third of the "representative" PFAS selected for testing in the context of the Agency's National Strategy are among the 54 substances listed in the Petition.[4] The data gathered will have "read-across" applications for other structurally similar substances. EPA's approach will identify *all* manufacturers of the representative substances selected (rather than just Chemours); this will afford all manufacturers an opportunity to collaborate on studies and reduce unnecessary and redundant animal testing and demands on limited laboratory space.

Finally, the Agency's June 2021 proposed rule under TSCA Section 8(a)(7) that would require PFAS manufacturers to provide detailed information about PFAS uses—as well as existing (published and unpublished) health and environmental effects data for PFAS[5]—will provide additional data that will allow EPA to refine and further advance its data-gathering efforts in a more organized and comprehensive manner than can be achieved by ordering testing on the 54 PFAS compounds identified in the Petition.

We believe the Petitioners have not overcome any of the previously-identified deficiencies and the relief requested has been superseded by EPA's National PFAS Testing Strategy and therefore the Petition should again be denied.

* * *

Please contact me at (302) 824-5018 if you have any questions, or if you would like to arrange a time to further discuss Chemours' perspective and information regarding the Petition.

---

[2] For further details, see Chemours January 2021 Submission at 5. The 5 PFAS subject to the testing requirements in the North Carolina Consent Order are: PFMOAA, PMPA, PFO2HXA, PEPA, and Hydro-PS Acid.

[3] *See* https://www.epa.gov/system/files/documents/2021-10/pfas-roadmap_final-508.pdf.

[4] Those seven PFAS are: (1) 3330-14-1 ("E2"); (2) 2062-98-8 ("HFPO-DAF"); (3) 1682-78-6 ("PEPF"); (4) 1623-05-8 ("PPVE"); (5) 428-59-1 ("HPFO"); (6) 69116-72-9 ("MAE"); and (7) 16090-14-5 ("PSEPVE").

[5] 86 Fed. Reg. 33926 (June 28, 2021).

Sincerely,

Kathleen O'Keefe

cc: Mark Hartman, Deputy Director,
Office of Pollution Prevention and Toxics